

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. No.15954 of 2005

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Date:04-08-2005

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Between:

Kotcherlakota Shiva @ K.V. Siva Prasad

S/o. K.V. Gopalakrishna, aged about 35 years,

Occ: Student, R/o. Plot No.126, Sri Colony,

Neredmet 'X' Road, Secunderabad,

Temporarily residing at the University Campus,

University of Florida, Gainesville, Florida, USA.

.. Petitioner

AND

The CBI/BS&FC, through Addl. Superintendent of Police,

VI Floor, NDMC Building, Yashwanath Place,

Chanakyapuri, new Delhi, camping at Hyderabad.

.. Respondent

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15954 OF 2005

ORDER:

Heard Sri Meharchand Noori, learned Counsel appearing on behalf of the petitioner, and Sri C. Sadasiva reddy, learned Standing Counsel for C.B.I., and on their request the writ petition is disposed of at the stage of admission.

The grievance of the petitioner herein is that his passport was seized by the respondent on 14.07.2005, during the course of interrogation in Cr.No.RCB-01-2004-E-0002 and that despite his giving an undertaking that he would complete his studies (Post Graduate course in business management) in Florida by the end of May 2006 and return to India immediately thereafter, his passport has not been released. Petitioner further states that he had earlier filed an application under Section 451 of the Code of Criminal Procedure (for short 'Cr.P.C.') before the Special Judge for C.B.I. Cases, Hyderabad and on his filing the present writ petition, the said application was withdrawn.

Sri Meherchand Noori, learned counsel for the petitioner, in his usual fair manner refers to the Judgment of the Division Bench of this Court in ***Hamida Habib Jilani Vs. The Secretary to Government, Home Department, Government of A.P., Hyderabad***, wherein, it was held that Section 165 Cr.P.C. empowered police authorities to seize the passport, that under Section 165(5) Cr.P.C., the passport seized has to be sent to the Magistrate concerned to take cognizance of the offence and that in case, the police authorities required the passport to be impounded, the passport authorities were required to be intimated in this regard through the Magistrate concerned. The complaint of Sri Meherchand Noori, learned Counsel for the petitioner, is that the said statutory requirement under Section 165(5) Cr.P.C. has not been complied with by the respondent C.B.I.

Sri. C. Sadasiva Reddy learned Standing Counsel for CBI/BS&FC, fairly submits that the only reason, why the passport was not submitted to the Magistrate, was that this is one among the thousands of documents seized by the C.B.I. and since the office of the C.B.I. is located at New Delhi and the present writ petition is pending before this Court, no action was taken by the C.B.I. Learned standing counsel submits that the C.B.I. will deposit the

passport of the petitioner before the Special Court for C.B.I. cases at Hyderabad within one week from today. Sri Meherchand Noori, learned counsel for the petitioner, submits that, with the leave of this Court, the petitioner would file a fresh application under Section 451 Cr.P.C. before the Special Court seeking release of the passport. He submits that unless a direction is given to the Special Court to dispose of the said application forthwith, the petitioner would loose a semester of his M.B.A. programme. Liberty is granted to the petitioner, if he so chooses, to file a fresh application under Section 451 Cr.P.C. before the Special Court and on receipt of the same, the Special Court shall hear the matter and, after complying with the procedural requirements of the Cr.P.C., pass appropriate orders thereon, as expeditiously as possible in any event not later than a period of three weeks from the date of filing of such application.

The Writ petition is disposed of accordingly. No costs.

RAMESH RANGANATHAN, J

Date:04.08.2005

Note: Furnish C.C. of the order by 05-04-2005.

(B/O)

MRKR